



**State of Connecticut**  
**HOUSE OF REPRESENTATIVES**  
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Testimony of  
Representative Geoff Luxenberg, 12<sup>th</sup> District  
February 22, 2011

In Support of HB 5429, An Act Concerning Availability of Medicare  
Supplement Insurance to Persons Eligible for the Qualified Medicare  
Beneficiary Program

Dear Chairman Tercyak, Chairman Musto, Ranking Members Markley and Gibbons and distinguished members of the Human Services Committee,

I testify today in support of HB 5429 An Act Concerning Availability of Medicare Supplement Insurance to Persons Eligible for the Qualified Medicare Beneficiary (QMB) Program. I would like to thank the chairmen, ranking members and committee members for allowing this Bill to be heard today and extend a special thanks to my colleague Rep. Jack Thompson, the dean of the Manchester delegation and a valued member of this committee. Rep. Thompson, along with Rep. Hurlburt have kindly signed onto this bill as co-sponsors and for that I am appreciative as well.

Working on this piece of legislation has been a learning process for me as a new legislator, but I think the process has been emblematic of the kind of work we are all trying to do here at the state legislature. The first time the issue of persons enrolled in the qualified Medicare beneficiary program not being able to access or change their Medicare supplemental insurance policies, or "medigap" or "mediflex" plans as they are commonly called, came to my attention I wasn't sure I even understood the problem, let alone whether there was anything that could be done to fix it.

QMBs and Mediflex plans had not been a featured element of my campaign for State Representative, and like so many topics we come across in the building, I realized I had a lot to learn.

Through the help of a talented policy advocate who lives in my home town of Manchester, I began to research the issue. We asked OLR to do a report on the issue. We gathered information from a variety of stakeholders and what we discovered was something worth discovering, that a simple, almost technical change to clarify an ambiguity in our State statutes would accomplish two laudable goals –

- 1) We would save the state money during a budget crisis.
- 2) We would improve access and the quality of health care options available to low-income seniors and people with disabilities.

The State Department of Insurance had taken the position that QMBs may not purchase new Medicare supplement policies or switch existing policies because they believe that Federal law prohibits it. The Department of Insurance relied, reasonably, on Federal law which makes it unlawful for a person to sell or issue a supplement policy to an individual entitled to Medicare Part A or enrolled in Medicare Part B unless it obtains from the applicant a statement that he or she is entitled to Medicaid (fully or partially). The Federal law goes on to say that if the statement indicates that the person is eligible for Medicaid, the sale of a supplement is considered a violation (and hence subject to penalty) unless the statement indicates that the only Medicaid assistance to which the individual is entitled is help with the payment of premiums (42 USC Sec. 1395ss(d)(3)(B)(iii)(III)). Connecticut's QMB program also pays other Medicare cost sharing (deductibles); hence the federal prohibition would seem to apply.

In seemingly direct contradiction of the State Department of Insurance's interpretation of Federal Law, the federal Centers for Medicare and Medicaid Services (CMS) has told the state that MSP enrollees, including QMBs, *can* purchase new supplements or switch their existing plans. They have interpreted a different section of federal law, §1395ss (B) as "clearly indicating that it is legal for a QMB beneficiary to buy one" Adding, "if someone who qualifies for a QMB attempts to purchase a policy during his/her open enrollment period or a GI period, he must be sold one."

In order to resolve the conflicting Federal CMS and State Department of Insurance interpretation of Federal law and its implications for Connecticut, the State Department of Insurance has taken the position that because our State Law does not explicitly allow for these purchases, that the CMS directive from the Federal Government doesn't apply. The Department of Insurance has held the position that the state statute (38a-495c) would have to affirmatively state that QMBs can purchase the supplements or switch them. This is a truly unusual situation, where a State agencies interpretation of Federal Law's impact on Connecticut and its residents has superseded the CMS's, a Federal entity, interpretation of Federal Law.

Proposed bill 5429 seeks to very simply codify in State law what the CMS has already said we "must" be doing, which is to allow QMB beneficiaries to purchase and change supplemental plans. By clarifying this in the law, we will be in sync with the Federal Government's mandate as expressed through CMS and remove the State Department of Insurance from the awkward position it is currently in of trying to interpret two different and opposing provisions of Federal Law.

It should not come as a surprise that the Department of Insurance is not here today to testify against this bill, even though the bill reverses their position. It is my belief, though the Department is currently in transition as it moves from one Commissioner to the next, that the new Commissioner will look favorably on this Bill because it clarifies an ambiguity and allows the Legislature to make the policy decision instead of the Department of Insurance which is consistent with our duties here.

You may be wondering, if you are not bored to tears by the extremely complicated explanation of the problem, why this all matters. How does clarifying our State law and allowing us to do what the CMS has told us we must do effect real seniors, real people with disabilities, and our State as a whole?

In 2009 there was an increase in income guidelines and a removal of the asset tests for the Medicare Savings Programs (MSP) (PA -09-2) and as a result there was a significant increase in the number of CT residents who are now eligible for assistance through MSP. MSP is a program administered by the State Medicaid office, the Department of Social Services. The QMB level of MSP is the lowest of the income guidelines and provides the most assistance to its members. QMB will pay the Medicare Deductibles and cost-sharing for individuals, *but only if their medical provider accepts both Medicare AND Medicaid*. If the provider does not accept CT Medicaid, the beneficiary is responsible for the cost sharing associated with the medical care/service they receive. These are low income seniors who live in all of our districts. By not addressing this issue, CT is taking away a person's right to purchase a private Medicare Supplement Plan that would be accepted by any doctor (across the country) that accepts Medicare. Therefore, by refusing to clarify the CMS's directive in our State statutes, we are decreasing low income senior citizens access to healthcare, increasing the out of pocket medical costs for income seniors, and increasing the State expenditures on the QMB program.

This is truly a remarkable situation where our current policy costs the State and its taxpayers more money, hurts low-income seniors by denying them access to the right health care options, increases the out of pocket costs for seniors, defies the orders of CMS, and reduces competition and choice in the market place by blocking out supplement plans from the market.

If ever there was an issue where Democrats, Republicans, advocates for seniors and advocates for taxpayers ought to work together to achieve a mutually beneficial aim for our State and its low income seniors this is it! All it takes is a simple, almost technical change in State statute for us to solve the problem, help low income seniors, save the state money and support competition in the market-place. I thank you for your indulgence

and for allowing me to explain the complicated intricacies of this issue and why it is so important that we move this bill forward out of this committee and to the Floor for the action.

I hope you will consider joining with me and our colleagues Representatives Thompson and Hurlburt in support of the bill. We welcome all of you to join us in co-sponsoring this legislation, and believe this issue is a completely non-partisan one where we can all work together for the best interest of our State and its citizens. I thank you again for your time and am happy to field any questions.

Respectfully Submitted,

Rep. Geoff Luxenberg  
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Manchester, CT